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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/751,233	01/02/2004	Sean William Tucker	10017979-2	1119

7590 05/21/2004

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P. O. Box 272400
Fort Collins, CO 80527-2400

EXAMINER

FLANDRO, RYAN M

ART UNIT	PAPER NUMBER
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3679

DATE MAILED: 05/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/751,233

Applicant(s)

TUCKER, SEAN WILLIAM

Examiner

Ryan M Flandro

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Priority

1. This application filed under former 37 CFR 1.60 lacks the necessary reference to the prior application. A statement reading "This is a continuation of Application No. 10/080,168, filed February 21, 2002" has been entered following the title of the invention and as the first sentence of the specification, but the current status of all nonprovisional parent applications referenced has not been updated. Appropriate correction is required.

Claim Objections

2. Claim 8 is objected to because of the following informalities: lines 1 and 3 of the claim recite "the mounting system" and "said equipment mounting system," respectively. The claim depends from claim 7 which recites only a fastening system. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

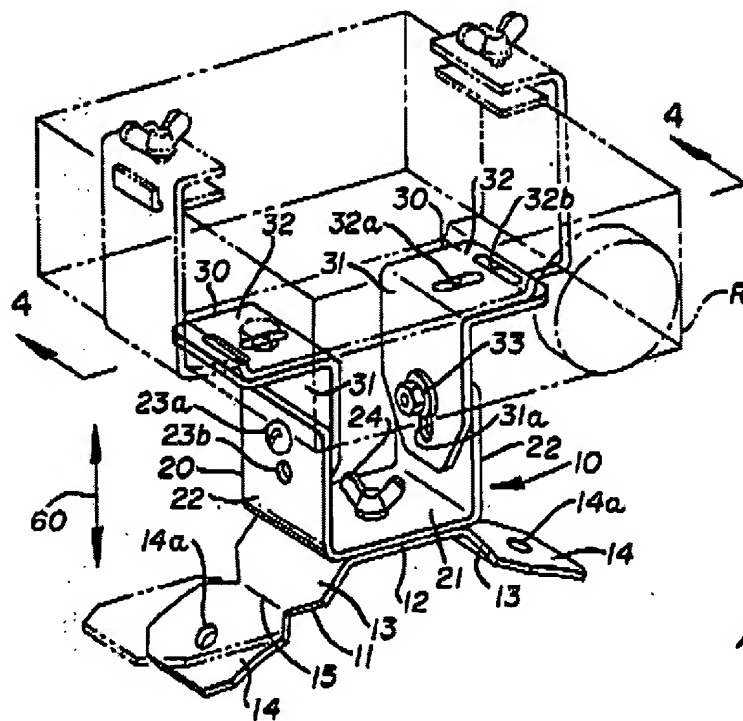
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

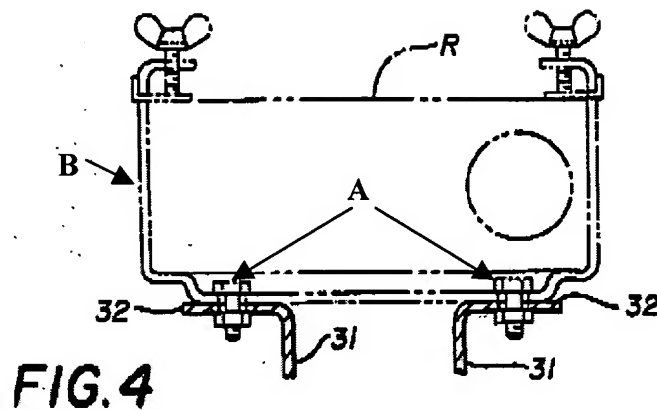
4. Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by McIntyre (US 4,097,012).

a. Claim 1. McIntyre shows and discloses a fastening system comprising a first mount bracket 30 rotatably attached to a first assembly 11,20; a second mount bracket 30

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(opposite side) rotatably attached to a second assembly **11,20,24**; and a perpendicular rigid attachment **A,B,R** between said first mount bracket **30** and said second mount bracket **30** wherein said attachment **A,B,R** enables said first mount bracket **30** and said second mount bracket **30** to rotate together about a common axis and wherein said attachment **A,B,R** enables a portion of said first mount bracket **30** and a portion of said second mount bracket **30** to be separated by space (see figure 1 and annotated figure 4 below).





- b. Claim 2. McIntyre further shows said first mount bracket 30 is attached to said first assembly 11,20 with an assembly screw 23a and an insert 33 (see figure 1 above).
- c. Claim 3. McIntyre further shows said insert 33 is a threaded insert and said assembly screw 23a screws into said threaded insert 33 (see figure 1 above).
- d. Claim 4. McIntyre further shows said rigid attachment A,B,R between said first and second mount brackets 30 comprises a machine screw A (see annotated figure 4 above).
- e. Claim 5. McIntyre further shows said first mount bracket 30 further comprises at least one ear 32 for manual grasping and positioning of said fastening system (see figures above).
- f. Claim 6. McIntyre further shows said first and second mount brackets 30 each comprise a pair of "L" brackets, each of the "L" brackets having a first leg 32 and a second leg 31 and said rigid attachment A,B,R comprises fasteners A for removably joining together the first legs 32 of said "L" brackets, wherein the first legs 32 of said "L" brackets are separated by said space (see figures above).

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g. Claim 7. McIntyre further shows rotatable fasteners **23a** for rotatably fastening the second leg **31** of one of said "L" brackets **30** to a structure **22** and for rotatably fastening the second leg **31** of the other "L" bracket **30** to a support **20,11** (see figure 1 above).

h. Claim 8. McIntyre further shows said second legs **31** of each pair of said "L" brackets **30** rotatably fastened to said structure **22** further comprises at least one ear **32** for manual positioning of said [fastening system?].

Double Patenting

5. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

6. Claims 1-8 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-5 of U.S. Patent No. 6,672,787. Although the conflicting claims are not identical, they are not patentably distinct from each other because each and every limitation recited in claims 1-8 of the instant application is recited in claims 1-5 of the 787 patent.

7. Claims 1-8 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-7 of copending Application No. 10/751,094. Although the conflicting claims are not identical, they are not patentably distinct from each other because each limitation of claims 1-8 of the instant application is contained in the copending claims.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents are cited to further show the state of the art with respect to fastening systems:

U.S. Patent 1,502,431 to Hubbard (shows a fastening system having first and second mount brackets the rotate together about a common axis).

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ryan M Flandro whose telephone number is (703) 305-6952. The examiner can normally be reached on 8:30am - 5:30pm Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Stodola can be reached on (703) 308-2686. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RMF

5/16/04



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